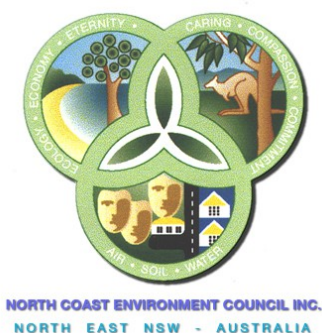


**Submission
No 16**

**INQUIRY INTO LOCAL LAND SERVICES AMENDMENT
(MISCELLANEOUS) BILL 2020**

Organisation: North Coast Environment Council Inc. (NCEC)

Date Received: 5 February 2021



North Coast Environment Council Inc.
Honorary Secretary
Jimmy Malecki

NCEC Submission to the *Local Land Services (Miscellaneous) Bill 2020*

Please accept this submission on behalf of the North Coast Environment Council.

Introduction

The North Coast Environment Council (NCEC) is the peak regional conservation group on the NSW North Coast which has been active in protecting the environment for more than forty years. Our organisation receives no government funding, relying on the 'in kind' contribution of dedicated volunteers to highlight issues of environmental concern and campaign for an end to environmental destruction.

The NCEC has been involved with attempts to get Koala habitat and koala populations protected over four decades. In that time, we have seen a complete failure of government policy to seriously address the ongoing decline in koala numbers. Koalas in NSW were already on a pathway to extinction in the wild by 2050 prior to the 2020 bushfires which decimated many important populations.

Rather than strengthening legislation in response to the present dire situation for koalas the Local Land Services Amendment (Miscellaneous) Bill 2020 further weakens the protection of koala habitat from further destruction. If implemented the Bill would seriously further weaken legislative protection for koalas by allowing even more unregulated clearing and logging activities in important koala habitat and other areas such as wetlands, littoral rainforest and other environmentally sensitive zones formerly protected by State Environmental Planning Polices.

The arguments provided in support of the Bill were to remove onerous restrictions on farming activities. However further facilitating clearing activities in environmentally sensitive areas will not assist the wider farming community in their agricultural pursuits, rather it will be of primary benefit to a handful of property developers with the intention of sub division and the timber industry at the expense of environmental values held by the wider community..

The objectives and impact of the Local Land Services Amendment (Miscellaneous) Bill 2020

The policy settings underpinning the Bill are inconsistent with recommendations made by the NSW Audit Office, Natural Resources Commission and NSW Upper House Inquiry; and also the original recommendations of Independent Biodiversity Review Panel. The Bill also pre-empts the outcomes of government reviews currently in progress. such as the three year review of the land management framework (LLS Act part 5a, allowable activities clearing of native vegetation) and the current review of the Private Native Forestry.

The objectives of the Bill appear to be to facilitate development by further removing restrictions on land clearing remaining after the removal of the Native Vegetation Act including an extensive range of allowable activities in previously protected environmental zones and other areas protected by State Environmental Planning legislation.

The Bill proposes significant changes to the PNF framework, including preventing local environment plans from requiring development consent for PNF, and doubling the duration allowed for PNF plans (from 15 years to 30 years). Logging is a major threat to koalas and should be prohibited in core koala habitat.

A review of the land management framework, conducted in early 2019 by the Natural Resources Commission (NRC Report) found that clearing rates have increased almost 13-fold from an annual average rate of 2,703ha a year under the old laws to 37,745ha under the new laws and that biodiversity in 9 out of 11 regions is now at risk. If passed the Bill would have further escalated land clearing rates which are already out of control.

The impact of the Bill would further facilitate the loss of areas formally identified and protected from unregulated clearing activities at a time when our biodiversity is in critical decline and the carbon storage and hydrological benefits of mature undisturbed forests are becoming more appreciated.

The operation and effectiveness of the 1994, 2019 and any potential new draft Koala SEPPs in protecting koalas and their habitat

Given the serious decline in koala numbers over the past two decades it is obvious that the State Environmental Planning Policy process has largely failed to adequately protect koalas since its inception. Local governments were meant to prepare Koala Plans of Management (KPMs) which involved mapping and placing 'core koala habitat' within protected environmental zones. Many councils didn't bother to undertake this task, seven councils completed KPM's on parts of their council areas which were approved by the Department of Planning (DoP) while five others completed the process but were never approved by DoP.

Where some local governments had tried to protect important koala habitat through the development of KPoM they were often over ridden by State government. The NSW Government refused to accept the Coffs Harbour Council KPoM because private logging interests objected. Instead Councils were excluded from having any decision making role in private native forestry (PNF), making the CHCC plan ineffective. Logging is meant to be prohibited in core koala habitat but the definition of core koala habitat was challenged by State Government in favour of timber industry interests.

There was no mandatory requirement for councils to prepare KPMs and the process was no doubt cost prohibitive for smaller councils. The limited list of koala feed trees under the 1994 SEPP as well as confusion over the definition of core koala habitat were factors contributing to the general failure of the original SEPP 44 to adequately protect koalas across the State.

The newer 2019 SEPP included a comprehensive list of koala feed trees however many of the problems of the original SEPP 44 were carried over into the 2019 Koala SEPP. These included the restriction to council-approved developments, the 1-hectare trigger, off-setting enabling clearance of important koala habitat, voluntary KPoM preparation, undermining by other legislation and developers choosing their favoured ecological consultants.

To more effectively protect koalas across the state as a start the NSW Government needs to take on the responsibility of urgently mapping and genuinely protecting core Koala habitat, habitat linkages, and climate refugia across all tenures. This needs to be overseen by an independent expert committee with expertise in Koala surveys and habitat mapping. Logging and clearing activities should be prohibited in core koala habitat as well as important wildlife corridors and climate refugia and appropriate on ground surveys and protection measures be put in place to protect koalas from clearing and logging activities in intermediate or secondary koala habitat areas.

Current and potential incentives and challenges facing rural landholders who seek to protect koalas and their habitat on their land

Given that approximately two-thirds of NSW's remaining koalas live in habitat on private property, policy development for potential incentives needs to be a high priority. Many landholders are embracing more sustainable agricultural practices and some are utilising financial incentives to protect koalas and their habitat. In some communities the level of interest appears to far exceed the support available.

While a variety of short term grants are available to improve habitats through weed control works, fencing etc they are often difficult to access and benefits may be relatively short term.

Obviously the best outcomes are achieved where areas of private land of high conservation value are reserved in perpetuity, with ongoing payments to support maintaining and improving conservation values. However these areas frequently have extensive timber resources and landholders are often subject to enquiries from timber company consultants for access to the resource. Incentives provided to landholders to reserve koala habitat in perpetuity need to be equal to or greater than the timber value that can be gained from the area reserved. Rate rebates should be provided and annual contribution to ongoing management provided. Funding could be derived for the carbon storage in the trees and soil on the property and other ecosystem services provided by healthy intact forests to offset costs to government.

Many forested properties are targeted by timber companies when they come on the market, with potential buyers urged to acquire PNF approvals to gain an immediate return on their investment. Greater funding needs to be provided to expand the Biodiversity Conservation Trusts revolving fund which seeks to purchase such high conservation forested properties, place under permanent conservation agreements and resell to sympathetic landholders.

The mechanisms by which biodiversity values are assessed on private land when land use changes.

The assessment processes for approval of rural activities has been successively weakened by State governments over the past two decades. The Private Native Forestry legislation is a good example.

A PNF approval is easily obtained with no on ground surveys to assess biodiversity values required. A map is provided highlighting the few areas that PNF may not be permitted. These include steep land over 30 degrees, minimum riparian buffers,

areas of mapped rainforest or old growth. The mapping can be challenged by the proponent and often will be modified to accommodate more logging.

Threatened species are only included if they have been recorded on wildlife atlas or bio net, where minimum prescriptions for their protection are required. . However there are very few records of threatened species on private land and landholders intending to develop land have no incentive to look for or record threatened species or robust legal requirements to ensure they do.. The PNF approval process thus provides ignorance as an excuse to destroy threatened species and their habitats.

The former requirements for on ground assessments have been largely abandoned, protection for formally 'steep protected land' (over eighteen degrees) have also been abandoned and riparian buffers have been reduced. These changes have been introduced to provide greater, easier access to the remaining large trees which had formerly been protected.

The escalation of rates of land clearing is a natural outcome of abandoning the requirements of the Native Vegetation Act and its replacement with a regulatory framework which allows for greater self assessment and other changes that facilitate development.

The impacts of current regulatory regimes on private landholders

The current regulatory regime favours development over conservation and provides little incentive to identify and protect areas of high conservation value or threatened species and their habitats. It is not surprising that the 2019 NRC report found that rates of land clearing have increase thirteen fold as a result of repealing the Native Vegetation Act. Private Native Forestry approvals have also escalated however little information is available on the current area of land under PNF approvals. The LLS amendment Bill would give even more dispensations for landholders to clear formerly protected areas such as core koala habitat, SEPP Wetlands and other formerly protected environmental zones.

Rural landscapes have been subject to extensive ringbarking of large paddock trees and understory removal to promote grazing opportunities since the Native Vegetation Act was repealed. For landholders intent on more intensive development the impacts have been positive. For their neighbours and the wider community who value biodiversity and for koalas the impact has often been devastating.

The impact on local government's ability to manage koala populations in their Local Government Area and koala plans of management

While some local governments have genuinely tried to give koalas the protection they need through identifying core koala habitat and attempting to protect it from inappropriate development, their efforts are frequently undermined by other legislation and a lack of commitment by State governments to prioritise koala protection over development opportunities

The NSW Government needs to take on the responsibility of urgently mapping core Koala habitat, habitat linkages, and climate refugia across all tenures. This needs to be overseen by an independent expert committee with expertise in Koala surveys and habitat mapping.

Conclusion

The NCEC was relieved when the introduction of the LLS Amendment Bill was rejected by the NSW Upper House. We certainly hope to see the end of attempts to further facilitate clearing of koala habitat and other environmentally sensitive areas. The devastating impact of the recent unprecedented drought and bushfires, largely as a result of a warming climate, should provide a wakeup call to governments to better protect native vegetation through both stronger legislation as well as financial incentives. Healthy mature forests on private land contribute significantly to carbon sequestration and storage, more healthy stream flows and compliment the protection of biodiversity provided by the formal reserve system.

Faithfully yours,

Jimmy Malecki

Secretary North Coast Environment Council